

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

G.S., by and through his parents and next friends, BRITTANY AND RYAN SCHWAIGERT;
S.T., by and through her mother and next friend, EMILY TREMEL; and on behalf of those similarly situated,

Plaintiffs,

v.

Case No. 21-02552-SHL-atc

GOVERNOR BILL LEE, in his official capacity as GOVERNOR OF TENNESSEE,
SHELBY COUNTY, TENNESSEE,

Defendants.

MOTION FOR COURT TO HEAR TESTIMONY

Plaintiffs have sought a Temporary Restraining Order and Preliminary Injunction against Defendants, Governor Bill Lee and Shelby County, Tennessee, enjoining and restraining the enforcement of Executive Order No. 84 and ordering Shelby County, Tennessee to reinstate the school mask mandate set forth in Health Order Nos. 24 and 25. This Court has set a hearing on Monday, August 30, 2021 at 11:00 A.M. Plaintiffs seek leave of court to present live and remote testimony of Plaintiffs and medical and public health experts. For grounds, Plaintiffs state as follows:

1. Plaintiffs Brittany Schwaigert will be present in court on Monday, August 30, 2021 at 11:00. She intends to present testimony regarding G.S.'s medical conditions, his special needs, the detriment caused by remote learning, and the negative impacts of the mask opt-out provisions of Executive Order No. 84.

2. Plaintiff Emily Tremel is under quarantine for COVID-19 and cannot be physically present in Court on August 30, 2021. She was exposed to COVID-19 by her daughter, S.T., who contracted COVID-19 in school likely as direct and proximate result of Executive Order No. 84. She will be available to the Court by videoconference through Microsoft Teams. She intends to present testimony regarding S.T.'s medical conditions, her special needs, the detriment caused by remote learning, her daughter's ineligibility to receive the vaccine, and the negative impacts of the mask opt-out provisions of Executive Order No. 84.
3. Sara Cross, M.D. is a physician board certified in infectious disease and internal medicine. She will be physically present in Court on August 30, 2021. She has cleared her calendar to make herself available to testify regarding the detrimental public health effects of Executive Order No. 84, the efficacy and necessity of universal masking, the specific pediatric implications for medically vulnerable children, the prevalence of conditions rendering children medically vulnerable to COVID-19 in Shelby County, and all other matters addressed in her declaration filed in this cause. (ECF 2-5.)
4. Joi Wilson-Townsend, MPH, M.D. is a physician with a background in public health who is board certified in pediatric medicine leading the COVID team for Memphis Children's Clinic. She will be treating patients on Monday, August 30, 2021 and is unable to be present in-person to testify, but she has arranged her schedule to be available to testify via Microsoft Teams regarding the current state of the COVID epidemic in Shelby County, the detrimental public health effects of Executive Order No. 84, the specific pediatric implications for medically vulnerable children, the prevalence of conditions rendering children medically vulnerable to COVID-19 in Shelby County, and all other matters

addressed in her declaration filed in this cause. (ECF 2-4.) She can be available to testify upon thirty (30) minutes notice.

5. Plaintiffs aver that this testimony will permit the Court to render a more fully informed decision as to Plaintiffs' application for a Temporary Restraining Order and/or Preliminary Injunction and to ascertain information necessary to resolve any questions the Court may have regarding the appropriateness of class certification.
6. Plaintiffs are presently inquiring about the possibility and necessity of presenting additional witnesses to testify regarding issues related to the Temporary Restraining Order and Preliminary Injunction application as well as class certification issues and will advise the Court via notice as soon as practicable should they intend to present other witnesses.

Wherefore, premises considered, Plaintiffs move this Court for an order permitting both live and remote testimony as outlined above.

Respectfully Submitted,

DONATI LAW, PLLC

/s/Brice M. Timmons

Bryce W. Ashby—TN Bar #26179

Brice M. Timmons—TN Bar #29582

Robert A. Donati—TN Bar #25355

Craig A. Edgington —TN Bar #38205

1545 Union Avenue

Memphis, TN 38104

Phone: 901.278.1004

Fax: 901.278.311

Email:

bryce@donatilaw.com

robert@donatilaw.com

brice@donatilaw.com

craig@donatilaw.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

A copy of the foregoing was served on Counsel for Defendants via the Court's ECF system or via email on this the 28th day of August, 2021.

/s/Brice M. Timmons